

APPEAL NO. 010857

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on March 30, 2001. The hearing officer resolved the disputed issues by determining that the appellant (claimant) was not injured in the course and scope of his employment on _____, and that because he did not sustain a compensable injury, he did not have disability. The claimant has appealed on evidentiary sufficiency grounds. The respondent (carrier) urges the sufficiency of the evidence to support the challenged determinations.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on _____, and, therefore, that he did not have disability. The claimant testified that he injured his back at a construction site on _____, when he and a coworker were carrying two iron bars on their shoulders and he attempted to jump over a hole and fell. The claimant acknowledged that substantially different descriptions of the accident were in the records of several doctors he saw but contended that such was attributable to the fact that he could only speak Spanish. The hearing officer's Statement of the Evidence clearly reflects that he did not find credible the claimant's testimony concerning the occurrence of the injury. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)). The Appeals Panel, an appellate-reviewing tribunal, will not disturb a challenged factual determination of a hearing officer unless it is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find it so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Robert W. Potts
Appeals Judge